

REMARKS/ARGUMENTS

Claims 1-27 are pending.

The drawings are objected to for reference numerals that are not described in the specification. The specification has been amended accordingly, without adding new matter.

An objection was raised against the specification for making an improper incorporation by reference. A review of the specification does not reveal any such incorporation by reference. The Background section makes mention of an IEEE standard, but there is no incorporation by reference of the standard. As stated in the MPEP, a disclosure in an application, to be complete, must contain such description and details as to enable any person of ordinary skill in the art to which the invention pertains to make and use the invention as of its filing date. *MPEP Section 608.01(p) citing In re Glass, 492 F.2d 1228 (CCPA 1974)*. It is earnestly submitted that IEEE standards are within the knowledge of those of ordinary skill in the art. and thus do not require their incorporation into the specification to render the specification "complete." Consequently, it is earnestly believed the objection to the specification is overcome.

An objection was raised against the Abstract. The Abstract has been replaced.

Claims 1-2, 5, 12-13, 16, 21-22, and 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Raj et al., U.S. Patent No. 6,628,649.

Claims 3-4, 9-11, 14-15 and 23-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Raj and Stevens.

Claims 6-8, 17-20, and 26-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Raj and Schwartz.

The independent claims have been amended to further distinguish the cited art. In particular, for example, amended claim 1 recites a data relay apparatus having a multiplexing circuit operative according to Link Aggregation multiplexing. Raj et al. do not show this specific aspect of the present invention.

The independent claims have been further amended to recite (for example in claim 1) a port management table and updates made to the table according to the disabling of

data ports when a failure is detected. Raj et al. do not show the use of a port management table, nor the updating of such a table. They teach an LSC simply ceases advertising its routes when an LSC fails. *Col. 19, lines 13-15*. They do not describe updating of a port management table as part of the response to detecting a failed LSC.

The claims as originally filed, recite disabling data ports of a second group of ports when “data communication is not available via any data port” of a first group of data ports, and vice-versa. Raj et al. do not show this aspect of the invention. They do not describe an LSC having a first group of data ports and a second data ports, wherein if “data communication is not available via any data port” in the first group, then the data ports in the second group are disabled. Raj et al. simply teach that a failed LSC no longer advertises its routes. *Col. 19, lines 13-15*. They do not teach an LSC having first data ports and second data ports, and disabling of second data ports when data communication is not available via any of the first data ports.

The independent claims have been further amended to recite (for example in claim 1) that the a data port is disabled by “by electronically cutting off and shutting down communication lines connected to said data ports.” Thus, when data communication is not available via any of the first data ports, the second data ports are disabled “by electronically cutting off and shutting down communication lines connected to said data ports.” Raj et el. most certainly does not show this aspect of the present invention. They describe no longer advertising routes in a failed LSC. They do not describe “electronically cutting off and shutting down communication lines connected to” second data ports when data communication is not available via any of the first data ports.

For at least any of the foregoing reasons, the Section 102 rejection of the claims is believed to be overcome.

Stevens was cited for showing the “ping” program. Stevens, however, does not show the foregoing described aspects of the present invention, and so does not render obvious the invention as recited in the pending claims. The Section 103 rejection of the claims is believed to be overcome.

Appl. No. 09/904,130
Amdt. sent April 19, 2005
Reply to Office Action of January 12, 2005

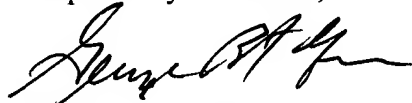
PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



George B. F. Yee
Reg. No. 37,478

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
GBFY:cmm
60431686 v1